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August 26, 2021

VIA ECF

The Honorable LaShann DeArcy Hall
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Golden v. Discover Bank*, Case No. 1:21-cv-04531-LDH

Dear Judge Hall:

We represent the Appellant-Defendant, Discover Bank (“Discover”), in the above-captioned case. On behalf of Discover and Respondent-Plaintiff Tashanna B. Golden (“Plaintiff”), we write to request a further extension of the briefing schedule for Discover’s pending motion for interlocutory appeal and for Discover’s forthcoming motion for certification of a direct appeal to the U.S. Court of Appeals for the Second Circuit.

On August 13, 2021, the Court granted the parties’ request for a coordinated briefing schedule on Discover’s motion for leave to file an interlocutory appeal and motion for certification of a direct appeal to the Second Circuit. Since then, the parties have engaged in preliminary settlement discussions. To facilitate further discussions, the parties respectfully request that the Court extend the deadlines included in the Court’s August 13th Order, as follows:

- Discover’s time to file its motion for certification of a direct appeal to the U.S. Court of Appeals for the Second Circuit would be adjourned from September 3, 2021 to January 7, 2022;
- Plaintiff’s time to file papers opposing Discover’s motion for interlocutory appeal and Discovery’s motion for certification of a direct appeal would be extended from September 24, 2021 to January 28, 2022;
- Discover’s time to file reply papers in further support of both its motion for interlocutory appeal and its motion for certification would be extended from October 8, 2021 to February 18, 2022.

The parties understand that the requested adjournment will not prejudice Discover’s right to move for certification of a direct appeal to the Second Circuit. While a motion for certification of a direct appeal normally must be filed within sixty days after the entry of

judgment, order, or decree appealed under Federal Rule of Bankruptcy Procedure 8006, Federal Rule of Bankruptcy Procedure 9006 empowers the Court to, in its discretion, enlarge this period for “cause shown.” Fed. R. Bankr. P. 9006(b)(1). Although there are certain exceptions to the Court’s power to extend bankruptcy deadlines, Rule 8006 motions are not included among those exceptions. *Id.* at (2), (3). Further, the time bar imposed by Rule 8006 is not jurisdictional. *See, e.g., Lynch v. Jackson*, 853 F.3d 116, 120 (4th Cir. 2017).

Here, cause exists to extend the period within which Discover must seek certification of a direct appeal because it will allow the parties to explore a voluntary resolution of this dispute, including a potential settlement on behalf of a potential plaintiff class. On that basis, the parties ask the Court to adjourn the briefing schedule for the subject motions as set forth above.

The parties appreciate the Court’s consideration of the requested adjournment.

Respectfully submitted,

/s/ Clay J. Pierce

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